

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 14-012
DCI2014-0003 – ROWE TIME EXTENSION

WHEREAS, Christopher and Henrietta Rowe, owners of 324 Estero Boulevard, have requested a 2-year extension of the Master Concept Plan for the Rowe RPD; and

WHEREAS, the STRAP for the property is 24-46-23-W1-00900.0010 and the legal description for the property is Lot 1, Gulf Shores subdivision, according to the plat thereof recorded in Plat Book 9 Page 88, of the Public Records of Lee County, Florida; and

WHEREAS, the subject property is located in the Residential Planned Development zoning district of the Official Zoning Map and the 'Mixed Residential' category of the Future Land Use Map of the Comprehensive Plan of the Town of Fort Myers Beach, Florida; and

WHEREAS, the Town Council approved rezoning of the applicable RPD zoning district via Town Resolution 11-07 on June 6, 2011; and

WHEREAS, the Town Land Development Code (LDC) Section 34-220 provides that a MCP is valid for three (3) years from the date of issuance, which means that the subject MCP expired on June 6, 2014, absent further action by the applicant and the Town; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on August 12, 2014; and

WHEREAS, at the hearing the LPA gave full and complete consideration to the request of Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-87.

IT IS HEREBY RESOLVED BY THE LPA OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

Based upon the presentations by the applicant, staff, and other interested persons at the hearing, and review of the application and the standards for granting time extensions, the LPA recommends the following findings of fact, conditions for approval, and conclusions for consideration by the Town Council:

The LPA Recommends APPROVAL/DISAPPROVAL of the Applicant's request to extend the Master Concept Plan for DCI2011-0002 for a period of two (2) years.

RECOMMENDED FINDINGS AND CONCLUSIONS:

1. The master concept plan is consistent with the LDC and the current Fort Myers Beach Comprehensive Plan, including but not limited to, density, intensity, and concurrency requirements, as required by LDC Section 34-220(5)a.1.

*The proposed residential condominium structure remains in compliance with applicable LDC provisions and the Fort Myers Beach Comprehensive Plan. **APPROVE/DENY***

2. The development shown by the master concept plan has not become incompatible with existing and proposed uses in the surrounding area as the result of development approvals issued after the original approval of the master concept plan, as required by LDC Section 34-220(5)a.2; and

*No development approvals have been issued in the surrounding area since the approval of the Rowe RPD, and the project remains compatible with the surrounding properties. **APPROVE/DENY***

3. The development shown by the master concept plan will not, by itself or in conjunction with other development, place an unreasonable burden on essential public facilities, as required by LDC Section 34-220(5)a.3; and

*The development will not place an unreasonable burden on essential public facilities. **APPROVE/DENY***

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member _____ and seconded by LPA Member _____, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE/NAY	Joanne Shamp, Vice Chair	AYE/NAY
Chuck Bodenhafer	AYE/NAY	Al Durrett	AYE/NAY
John Kakatsch	AYE/NAY	Jane Plummer	AYE/NAY
Jim Steele	AYE/NAY		

DULY PASSED AND ADOPTED THIS **12th** day of **AUGUST, 2014**.

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk



Town of Fort Myers Beach
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT

TYPE OF CASE: Master Concept Plan Extension
CASE NUMBER: DCI2014-0003
LPA HEARING DATE: August 12, 2014
LPA HEARING TIME: 9:00 am

I. APPLICATION SUMMARY

Applicant: Christopher & Henrietta Rowe

Request: A time extension of a previously approved Master Concept Plan allowing for the rezoning of 324 Estero Boulevard from Residential Multifamily (RM) to Residential Planned Development (RPD) utilizing the pre-disaster buildback provision found in Section 34-3237 of the Fort Myers Beach Land Development Code.

Subject property: Gulf Shore
Plat Book 9, Page 88
Lot 1

Physical Address: 324 Estero Boulevard

STRAP #: 24-46-23-W-00900.0010

Parcel Size: .43 AC

FLU: Mixed Residential

Zoning: Residential Planned Development (RPD)

Current use(s): Single Family Residential

Adjacent zoning and land uses:

North:	Pink Shell Resort COMMERCIAL PLANNED DEVELOPMENT (CPD) Mixed Residential
South:	Beach ENVIRONMENTALLY CRITICAL (EC) Recreation
East:	Island Shore Condominium RESIDENTIAL MULTIFAMILY (RM) Mixed Residential
West:	Pink Shell Resort COMMERCIAL PLANNED DEVELOPMENT (CPD) Mixed Residential

II. BACKGROUND AND ANALYSIS

Background:

The Local Planning Agency heard the original application on May 10, 2001 and recommended that the Town Council deny the request. The request was heard and approved by Town Council on June 6, 2011 with the adoption of Resolution Number 11-07.

Analysis:

Due to illness in the family and the poor economy the applicant has been unable to complete the project. The LDC Sec. 34-220 provides that:

(1) An approved master concept plan and its attendant documentation shall be deemed to be vacated unless the property owner obtains a development order for the first phase of the project within three years of the date of the original approval by the town council, consisting of no less than 20 percent of the lots, dwelling units, square footage, or other applicable measurements of intensity for the development in question unless a lesser percentage is approved by the town council.

(5) Extensions of master concept plans may be granted as follows:

a. An approved master concept plan for a phase of or an entire planned development which has been or may be vacated due to a failure to proceed on the applicant's part may be extended by the town council for a period of no more than two years from the date of the extension based on the following findings of fact:

1. The master concept plan is consistent with this code and the current Fort Myers Beach Comprehensive Plan, including, but not limited to, density, intensity, and concurrency requirements;

2. The development shown by the master concept plan has not become incompatible with existing and proposed uses in the surrounding area as the result of development approvals issued after the original approval of the master concept plan; and

3. The development shown by the master concept plan will not, by itself or in conjunction with other development, place an unreasonable burden on essential public facilities.

Findings and Conclusions:

Staff concurs with the Town Council Resolution that the required findings and conclusions have been met.

III. RECOMMENDATION

Staff recommends **APPROVAL** of the time extension for the Rowe MCP as previously conditioned.

IV. CONCLUSION

The Master Concept Plan was approved by Town Council on June 6, 2011. Due to illness and the poor economy the owner was not able to complete the proposed work in the allotted time frame. The applicant is applying for a two year extension as provided by the LDC.

Exhibits:

Exhibit A - Resolution Number 11-07

Exhibit B - Minutes

RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 11-07

ROWE RPD

WHEREAS, Henrietta and Christopher Rowe, the owners of property located at 324 Estero Boulevard Fort Myers Beach, Florida have requested to rezone .43 acres from Residential Multifamily (RM) to Residential Planned Development (RPD) to approve a schedule of uses, and approve certain deviations from the requirements of the Land Development Code, all as indicated on the Master Concept Plan, which is attached hereto and incorporated herein by reference as Exhibit "D-2-1"; and

WHEREAS, the subject property is located in the both the Mixed Residential and Recreation Future Land Use Category of the Comprehensive Plan of the Town of Fort Myers Beach; and

WHEREAS, the STRAP for the property is 24-46-23-W1-00900.0010 and the legal description for the property is Lot 1, Gulfshore subdivision, according to the plat thereof recorded in Plat Book 9 Page 88, of the Public Records of Lee County, Florida; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Local Planning Agency (LPA) on May 10, 2011; at which time the LPA gave full and complete consideration to the request of the Applicant, recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85, and recommended denial of applicant's request as set forth in LPA Resolution No. 2011-05; and

WHEREAS, at its meeting of May 10, 2011, the LPA instructed Town staff to bring this application forward to Town Council without the necessity of having approved LPA minutes; and

WHEREAS, a public hearing on this matter was legally advertised and held before the Town Council on June 6, 2011, at which time the Town Council gave full and complete consideration to the request of the Applicant, LPA Resolution No. 2011-05, the recommendations of staff, the documents in the file, and the testimony of all interested persons, as required by Fort Myers Beach Land Development Code (LDC) Section 34-85.

IT IS HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, as follows:

The Town Council hereby APPROVES the request to rezone the subject property to a RPD zoning district with three (3) multi-family dwelling units and the approved schedule of uses which is attached hereto and incorporated herein by reference as Exhibit "D-2-3," subject to the conditions and deviations set forth with specificity below.

CONDITIONS OF APPROVAL

1. The proposed building and all proposed amenities must comply with all FEMA regulations in effect at the time of Development Order and all provisions found in LDC Chapter 34-3237, excluding the requested and approved deviations.

2. The mechanical cupola illustrated on applicant's Exhibit D-2-2, which is attached hereto and incorporated herein by reference, must remain non-habitable space and be relocated as close to Estero Boulevard as possible.
3. A sprinkler system shall be installed consistent with the building's intended use that will meet all Florida Fire codes and must be included in Development Order plans and installed at the time of construction.
4. Applicant must meet all applicable environmental requirements of the LDC, including but not limited to protection of dune vegetation and appropriate sea turtle lighting.
5. At the time of Development Order, applicant must adhere to best stormwater management practices and all applicable LDC sections pertaining to stormwater and drainage when addressing the on-site stormwater conditions.
6. Applicant must provide any and all required Florida Department of Environmental Protection approvals and permits at the time of Development Order.

APPROVED DEVIATIONS

Deviation #1

Deviation from Table 34-3 of the LDC, which allows for a maximum height of 30 feet/3 stories, to allow for a maximum height of 35 feet/4 stories and a maximum roof height of 58 feet exclusive of the cupola.

Deviation #2

Deviation from Section 34-3237(4) which requires total interior square footage of a rebuilt dwelling not to exceed the interior square footage of the original dwelling unit, to allow for an increase of interior square footage to permit the proposed 8,990 square foot structure.

FINDINGS AND CONCLUSIONS

Based upon the presentations by the Applicant, staff, and other interested parties at the hearing, and a review of the application and standards for the planned development zoning approval, the Town Council makes the following findings and reaches the following conclusions:

1. *Whether there exists changed or changing conditions which make the approval of the request appropriate.*

The area surrounding the subject property has changed over the past years, with the development of mid-rise and high-rise resort condominiums to the east and west. With resort units and condominiums on both sides of the subject property that range in height from 6 to 8 stories, the Town Council finds that an exception, pursuant to Section 34-631(b)(5) of the Land Development Code, to permit the proposed 35' building is more reasonable and compatible in terms of height than the existing single story stilt frame structure. Additionally, the Town Council hereby specifically finds that the Applicant presented competent evidence to establish that the proposed density of three dwelling units is the legally documented number of dwelling units as indicated on the Lee County Property Appraiser's field cards, which are attached hereto and incorporated herein as Exhibit D-2-4.

2. *The impact of a proposed change on the intent of Chapter 34.*

The proposed rezoning will implement the Town's pre-disaster buildback policy and allow for the appropriate infill redevelopment of the subject property. The provisions to accomplish the applicant's request can be found in Section 34-3237 of the LDC and Policy 4-E-1 as discussed in the analysis section of the Staff report. This is a request contemplated and even encouraged by the Comprehensive Plan and Land Development Code. The proposed redevelopment will result in the improved health, safety and welfare of the surrounding properties, as well as the subject property, by bringing the building into compliance with current FEMA flood elevation requirements. The proposed change is consistent with the intent of Chapter 34 of the LDC.

3. *Whether the request is consistent with the goals, objectives, policies and intent, and with the densities, intensities and general uses set forth in the Fort Myers Beach Comprehensive Plan.*

As discussed in the Staff analysis and in applicant's Exhibit D-1-C, which is attached hereto and incorporated herein by reference, the proposed RPD is consistent with the Comprehensive Plan, specifically the policies pertaining to the Mixed Residential future land use category and the pre-disaster buildback provisions. The residential uses and the legally documented three (3) dwelling units do not exceed the general densities and intensities set for the in both the Comprehensive Plan and the LDC. Additionally, this request will further the Town's goal of reducing flood insurance rates for residents by bringing another non-conforming unit into compliance with current FEMA standards.

4. *Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.*

The proposed use is residential in nature and therefore is not required to comply with any performance or locational standards.

5. *Whether urban services are, or will be available and adequate to serve a proposed land use change.*

The proposed redevelopment at the subject property is infill in nature and as such, the current urban services available at the site will also be available when the project is complete.

6. *Whether the request will protect, conserve, or preserve environmentally critical areas and natural resources.*

In accordance with current Land Development Code regulations, no portion of the subject property that falls within the Environmentally Critical (EC) zoning district has been included in the RPD request thereby protecting, conserving and preserving these sensitive environmental lands. In addition, the applicant has entered into an agreement with the County to allow for beach renourishment on the property.

7. *Whether the request will be compatible with existing or planned uses and not cause damage, hazard, nuisance or other detriment to persons or property.*

The requested RPD is compatible with the surrounding properties. As an infill project, the subject property has the benefit of being designed to fit within its neighborhood context while still coming into compliance with the current FEMA regulations and improving the overall aesthetics of the area. The request, as proposed will not create any damage, hazard, nuisance or other detriments of persons or property.

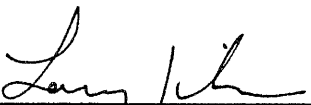
8. *Whether the location of the request places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.*


The Traffic Impact Statement requirement was waived by the Community Development Director in a memo dated April 13, 2011, which is included in Exhibit D-2-1. The effect of that waiver is a determination that the proposed development will have no net impact or burden on the transportation services of the Town.

Upon a motion made by Councilmember Kosinski and seconded by Councilmember Mandel, this Resolution was


DULY PASSED AND ADOPTED ON THIS 6TH DAY OF June, 2011.

Larry Kiker, Mayor	aye	Bob Raymond, Vice Mayor	nay
Alan Mandel	aye	Jo List	aye
Joe Kosinski	aye		

By: 
Larry Kiker, Mayor

ATTEST:
By: 
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: 
FOWLER WHITE BOGGS
Town Attorney

Rowe Residential Planned Development

Exhibit D-2-3 Schedule of Uses

REVISED APRIL 18, 2011

Dwelling Units:

Multiple Family Building (limited to 3 dwelling units)

Short Term Rental Unit

Entrance Gates

Essential Services

Fences, Walls

Recreational Facilities, Private, On-Site

Residential Accessory Uses

Storage, Indoor

Temporary Uses

PROPOSED UNIT BLDG

324 ESTERO BLVD



[illegible][illegible]

Rowe Residential Planned Deveopment

Exhibit D-1-C: Comprehensive Plan Compliance Narrative

Christopher and Henrietta Rowe (Applicant) are requesting approval of a Residential Planned Development (RPD) rezoning to allow for the Pre-disaster Redevelopment of the subject property with a 3-unit condominium and residential accessory uses. The subject property consists of approximately 18,831 s.f. (to ECL), of which 6,500+/- s.f. is located within the Mixed Residential Future Land Use Category. The remainder of the property is seaward of the 1978 Coastal Construction Control Line (CCCL) and is designated within the Recreation Future Land Use Category.

Flanked on both sides by mid-rise and high-rise multi-family residential developments, the subject property currently contains one structure previously used for a multi-family triplex and presently being used as a single family rental. This proposed RPD is essentially an infill redevelopment proposal to make the existing inconsistent single-family use more compatible with the neighboring parcels and to enhance the quality of the area through redevelopment of an old structure. It is proposed for Pre-disaster Redevelopment as a 3-unit condominium under the Pre-disaster Buildback provisions of the Comprehensive Plan [Policy 4-E-1] and Land Development Code (LDC) [Section 34-3237(4)]. The property was historically developed with a triplex as evidenced by the 1978 Property Appraiser Card attached as Exhibit D-2-4. In order to cure the existing inconsistent single family use of the property and to make it more compatible with the surrounding multi-family uses, the Applicant is seeking approval to buildback to the pre-existing triplex use, effectively improving the overall appearance of the subject property, while adhering to the current coastal construction and floodplain regulations.

The following is an analysis of how the proposed RPD is consistent with goals, objectives and policies of the Town of Fort Myers Beach Comprehensive Plan (Plan).

Policy 4-B-2: Mixed Residential Future Land Use Category

The Mixed Residential (MR) Future Land Use Category is designated in areas with mixed housing types on smaller lots, newer high-rise buildings, mobile homes and RV parks. This Category is intended to ensure that Fort Myers Beach retains a variety of neighborhoods and housing types.

The proposed RPD is in direct compliance with this policy as the proposed multi-family use is located in a neighborhood characterized by a mixture of condominiums and hotels on the Gulfside and single-family residences on the Bayside. Therefore, the request for multi-family uses will uphold the desire for a diversity of housing types within the Town.

The proposed density for the property is 3 dwelling units, which complies with the historical density of the property when developed as a 3-unit triplex. The proposed density for the property will fall within the provisions of the pre-disaster buildback policy, 4-E-1 below, and is lower than the existing density of the surrounding properties which are developed at 18 du/acre (Pink Shell Resort PUD to the west and north) and approximately 40 du/acre (Pink Shell Beach Club Condominium Timeshares to the east).

Policy 4-B-8: Recreation Future Land Use Category

A portion of the Applicant's property is located seaward of the CCCL and is designated as Recreation on the Future Land Use Map. Per the attached MCP, this area is not proposed for residential uses and will remain undeveloped in compliance with this policy.

Policy 4-E-1: Pre-Disaster Buildback

This policy allows owners of developments exceeding the current density or height limits to replace the same use prior to a natural disaster via the planned development rezoning process.

Per the attached 1978 property appraiser card and as discussed in the pre-application meetings by the owners with former Planning Director Frank Shockey in 2010, and again recently on February 16, 2011, it has been determined that there is adequate data to support the redevelopment of the subject property with a 3-unit condominium under the pre-disaster buildback provision. The Applicant is proposing to buildback to the same density as previously existed when the property was a triplex, as demonstrated on the MCP.

In terms of height, the Applicant is seeking a deviation from the RM Zoning District's site development regulations to allow for a maximum height of 35 feet above base flood elevation with a total of four (4) stories, including first floor parking. Although more compatible with the surrounding buildings, this proposed height will still be lower than surrounding building heights and will not impact existing views of the Gulf of Mexico from adjacent properties. Specifically, Estero Beach Villas to the west is developed at 8 stories/65 feet above base flood elevation, and the Pink Shell Beach Club is 6 stories/46 feet above base flood elevation.

The Applicant is also requesting a deviation from the pre-disaster buildback regulations in Section 34-3237(4) of the LDC to allow for additional square footage that will allow the redeveloped structure to be more compatible with the neighboring development and buildings with which it must fit in and complement.

The proposed RPD meets the underlying intent of the pre-disaster buildback by ensuring compliance with the current coastal construction and floodplain regulations, which will result in a safer, more storm-resistant structure, thereby providing for greater safety of the surrounding structures in the event of a storm or other disaster. Additionally, the RPD will provide for the visual enhancement of the subject property, which enhances property values and benefits surrounding property owners and their viewsheds along Gulfshore Court and Estero Boulevard.

Policy 4-E-2: Coastal Setbacks

The proposed RPD is in compliance with the coastal setbacks policy, as all proposed structures will be located landward of the CCCL.



MINUTES

June 6, 2011

FORT MYERS BEACH TOWN COUNCIL
TOWN HALL – COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931

I. CALL TO ORDER

Mayor Kiker called to order the June 6, 2011 meeting of the Town Council at 9:02 am. Present along with Mayor Kiker: Vice Mayor Raymond, Council Members Kosinski, List and Mandel; Town Manager Stewart, Town Attorney Miller and Town Clerk Mayher.

II. INVOCATION – Reverend Jeanne Davis, Beach United Methodist Church

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Agenda accepted as presented.

V. PUBLIC COMMENT

Open Public Comment

- George Meek – referenced the rumor of a Hard Rock Café coming to Estero Island and questioned whether the Council was taking any action to prevent it.

Closed Public Comment

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

VIII. APPROVAL OF MINUTES

- IX.** A. April 4, 2011 Town Council work session
B. May 2, 2011 Town Council meeting
C. May 16, 2011 Town Council meeting

MOTION: Motion to approve minutes without changes by Council Member Mandel;
Second by Vice Mayor Raymond.

VOTE: Motion passed 5-0.

X. CONSENT AGENDA

- A. Transfer from Beach Renourishment Reserve for Vegetation Survey
B. Authorization to Apply for Arts & Attractions Grant
C. Proclamation – Pledge of Civility

D. Mound House Landscape Restoration Project Change Order

Council Member Mandel pulled Consent items A & D for discussion.

MOTION: Motion by Council Member Mandel to approve Consent items B&C; Second by Vice Mayor Raymond.

VOTE: Motion passed 5-0.

Council Member Mandel questioned why the requested funds for the beach vegetation survey were not part of the interlocal agreement and paid by the County. The Town Council directed staff to negotiate the funds with the Lee County and to bring back the vegetation survey item on the June 20, 2011 consent agenda.

Council Member Mandel questioned the Mound House landscape item.

Town Manager Stewart responded that this project is within budget; no additional dollars. Public Works Director Lewis clarified details of the project specific to the pathway; the change order was adding a 'cap', designed to be a more fixed appearance.

MOTION: Council Member Mandel moved approval of the Mound House landscape change order. Council Member List seconded the motion.

VOTE: Motion passed 5-0.

XI. PUBLIC HEARINGS

A. Case Number FMBSEZ2010-0003, Mermaid Liquor & Lounge Special Exception

Mayor Kiker opened the public hearing.

Council Member Kosinski declared a voting conflict, and submitted **Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Public Officers**. CM Kosinski declared the disclosure of local officer's interest:

I, Joseph C. Kosinski, hereby disclose that on June 6, 2011, a measure came or will come before my agency which inured to my special private gain or loss; The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Case Number FMBSEZ2010-003, Mermaid Liquor & Lounge Special Exemption

Approval of a special exception in the Downtown zoning district to allow consumption on premises of alcoholic beverages in a restaurant providing outdoor seating area within 500 feet of a dwelling unit under separate ownership. I wish to abstain from voting on this case due to the fact that my company, JC Kosinski Engineering, Inc., provide the permitted plans for the outside seating area. I feel that due to this conflict I should not vote on this issue.

Council declared ex-parte communication.

CM Kosinski – abstain, form 8B

VM Raymond – visited the site, no conversation

CM List – visited the site, no conversation

CM Mandel – visited the site, no conversation

M Kiker – visited the site and spoke with the business owner

Fort Myers Beach Town Council

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Applicant defers to staff to present the case.

Leslee Chapman, Town Zoning Coordinator – staff recommends approval.

LPA representatives Rochelle Kay and Bill Van Duzer – LPA recommends approval; the back patio is enclosed and does not go on to the sandy beach.

PUBLIC COMMENT

Opened Public Comment

- Lucinda Keller – problem is in the winter with more traffic; would like to see the Mermaid do what they want but the bottleneck needs to be addressed.

Closed Public Comment

Discussion ensued: 150 square feet at the front to be defined by vegetation; music in front only by special permit. Mayor Kiker inquired whether the business sign is in compliance. Manager Stewart responded that the business has until December 31, 2011 to come in to compliance. Mayor Kiker wants mandatory recycling enforced. Vice Mayor Raymond wants the applicant to enclose the recycle bins on the north side.

Closed Testimony.

MOTION: Council Member Mandel moved approval of a special exception in the downtown zoning district to allow consumption on premises of alcoholic beverages in a restaurant providing an outdoor seating area within 500 feet of a dwelling unit under separate ownership with mandatory recycling in place, screening of refuse containers and the conditions recommended in the staff report.

VOTE: Motion passed 4-0, with Council Member Kosinski abstaining (Filed form 8B).

Mayor Kiker closed this hearing at 9:55 AM.

B. Case Number FMBSEZ2010-0006, Merlo's Bar & Grille Special Exception

Mayor Kiker opened the public hearing at 9:58 AM

Council declared ex-parte communication:

Mayor Kiker – visited the site and talked with the business owner

Vice Mayor Raymond – none

CM Kosinski – none

CM List – none

CM Mandel – none

Applicant defers to staff to present the case.

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Leslee Chapman, Town Zoning Coordinator – Applicant requests COP in an outdoor seating area; staff recommends approval with conditions.

LPA Representatives – Rochelle Kay and Bill Van Duzer. The property is across the street from the beach; no spill-over on to the sand; parking spaces are identified in Primeau's parking; is ADA compliant; entertainment element is removed as the LPA is of the opinion that the deck is right on top of residential therefore they recommend restricting entertainment.

PUBLIC COMMENT

Opened Public Comment

- Lucinda Keller – There is a problem with the owner who obstructs her view; there is a problem with drainage; the right-of way is not to be changed.

Closed Public Comment

Mayor Kiker recommends that compliant signage and mandatory recycling be part of the conditions for approval; Council Member Kosinski recommends that the hours of operation should be with a permit.

MOTION: Council Member List moved approval of a special exception in the downtown zoning district to allow consumption on premises of alcoholic beverages in a restaurant providing an outdoor seating area within 500 feet of a dwelling unit under separate ownership, per Town Council resolution 11-06, adding that music is allowed and signage and mandatory recycling to be in compliance. Council Member Kosinski seconded the motion.

VOTE: Motion passed 5-0.

Public hearing closed at 10:25 AM

Recess: 10:25 AM

Reconvene: 10:40 AM

C. Case Number FMBDCI2011-0002, Rowe RPD

Mayor Kiker opened the public hearing at 10:00 AM

Council declared ex-parte communication

Vice Mayor Raymond – Spoke with Attorney Hartsell (Pavese Law Firm), representative for the applicant; visited the site

Council Member List - Spoke with Attorney Hartsell (Pavese Law Firm), representative for the applicant; visited the site

Council Member Mandel - Spoke with Attorney Hartsell (Pavese Law Firm), representative for the applicant; visited the site; participated in a phone conversation with a member of the LPA

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Mayor Kiker - Spoke with Attorney Hartsell (Pavese Law Firm), representative for the applicant; visited the site; participated in a phone conversation with a member of the LPA

Council Member Kosinski - Spoke with Attorney Hartsell (Pavese Law Firm), representative for the applicant; visited the site; participated in a phone conversation with a member of the LPA

Applicant presented its case.

Steven Hartsell, attorney with Pavese Law Firm presented on behalf of the applicants, Christopher and Henrietta Rowe, who are requesting approval of a Residential Planned Development (RPD) rezoning to allow for the pre-disaster redevelopment of the property with a 3-unit condominium and residential accessory uses. The property consists of 18,831 s.f. of which 6,500 +/- is located within the mixed residential future land use category. The request is to rezone from RM to RPD.

Leslee Chapman, Town Zoning Coordinator – Staff recommends approval of the requested residential planned development rezoning and deviations subject to the conditions recommended in the staff report.

LPA Representative – Joanne Shamp and Bill Van Duzer – read a prepared statement. In summary, the LPA considers that this application is not allowable through the Objective and Policies of the Comprehensive Plan and the regulations of the Land Development Code and that the granting of these deviations violates the Comprehensive Plan. The LPA recommends that the Town Council deny the application.

PUBLIC COMMENT

Open Public Comment

- Bill Cox – with Suitor, Middleton Cox Management Company that represents Estero Island Beach Villas. Peter Hall and John Boucher: Peter Hall – 250 Estero Blvd. Adjacent property owner; feels this request undermines the integrity of the Town's Comprehensive Plan
John Boucher – 250 Estero Blvd. If the intention is to allow such variances, recommends we change the Comp Plan.
- Doug Blye – Estero Island Beach Villas – His property will be negatively impacted if approved.
- Peter Lisich – adjoining property owner at 250 Estero and owns 351 Estero. The subject property has been taxed at, appraised at and been used as a single family home.
- Carleton Ryffel – concerned citizen – mis-interpretation of the LDC and Comprehensive Plan; recommends denial as it is inconsistent with the Comp Plan

Closed Public Comment

Steve Hartsell, with Pavese Law firm, on behalf of the applicant, requested that the power point presentation and staff report be entered as matter of record. The applicant has applied for an RPD as required under the pre-disaster build back. The process required allows for flexibility, allowing the application to apply for deviations where deviations make sense. The Rows are requesting two deviations: one deviation to allow height increase from 3 stories at 30 feet, to 4 stories at 35 feet. The other deviation is an increase in square footage. The

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original request for 13,000 square feet was high. Subsequently the applicant reduced it to under 9,000 sq. ft. The Rowes will accept and revise that request down to 8,990 square feet.

Regarding the question of whether the existing structure is three dwelling units, the applicant indicated that in 1978, the property appraiser identified the existing unit, the accessory apartment and the lock-off unit were existing. There have been 3 dwelling units on that property since 1978.

Under standard rezoning definitions, intensity relates to commercial development; density relates to residential. In Policy 4-E-1 in the Comp Plan, the limitations to square footage increase relates to commercial, it does not relate to residential.

Two dwelling units can be built to 30 ft over the required 17 feet base flood elevation, which takes it up to 47 feet of height for the roof, 62 ft in height to peak of roof. Being cognizant of neighbors, the Rowes agree to limit roof peak height. They have agreed that if the deviation for 3 stories and 35 ft height is approved, they will limit top peak to just 58 feet, max 58 ft to peak of structure. Actual height will be lower than what would presently be permitted under the existing code. The Rowes have also agreed to eliminate short term rentals from the list of uses for this property.

Mayor Kiker posed a question to Town Counsel; asking a legal opinion as to the number of units of this property, what the height restrictions are, what exactly is legal / not legal in terms of deviations, and asking that those issues be addressed when the council returns from lunch.

Recess: 12:10 PM

Reconvene: 12:50 PM

Town Attorney Jim Humphrey asked to address the Council before the public hearing was resumed. Council concurred.

Mr. Humphrey summarized a memo received from the Town's Bond Counsel, Nabors Giblin & Nickerson. Since the funds to construct the library improvements were obtained through a capital reserve fund, sometimes referred to as creating a "piggy bank", general budget and accounting rules would apply. All local governments are subject to pronouncements of Generally Accepting Accounting Principles which historically require capital reserve fund project financing to be separately identified in the budget as special revenue funds. Florida Statute 189.415 requires that special districts foster coordination with local governments by preparing and filing a Public Facilities Report with each local general-purpose government in which the special district is located. The Town Attorney recommended that the Town Council correspond with the FMB Library through the Town Manager asking them to comply with the statutory requirements of the Special District Accountability Act and provide the Town with the public facilities report.

Mayor Kiker resumed the public hearing of Case Number FMBDCI2011-0002, Rowe RPD at 1:10 PM.

Attorney Miller stated that the Council's role is quasi-judicial -- they are the judge and jury. There are some factual issues to be addressed, such as whether there are legally documented 3 units. The LPA raised issue regarding this violates the Comprehensive Plan.

FL statute 163.3194(4)(a) *A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation under consideration. The court may consider the relationship of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process (of law and the payment of just compensation).*
(b) *It is the intent of this act [the local comprehensive planning act that requires local governments to adopt comprehensive plans] that the comprehensive plan set general guidelines and principles concerning its purposes and contents and that this act shall be construed broadly to accomplish its stated purposes and objectives.*

The state statute is telling that the comprehensive plan is a general policy document not the same as the LDC which are specific regulations that have to be consistent with the general policy of the comprehensive plan.

In the Town Comprehensive Plan, Procedures and Monitoring, Page 15-1

Upon adoption of this plan, all development and all actions taken in regard to development orders shall be consistent with this plan. All land development regulations enacted or amended after its effective date shall be consistent... The terms "consistent with" and "in conformity with" shall mean that all development actions or orders will tend to further the goals, objectives and policies of the plan and will not specifically inhibit or obstruct the attainment of articulated policies.

The Comprehensive Plan, Pre- Disaster Buildback Policy, 4-E-1:

Owners of existing developments that exceed the current density or height limits may also be permitted to replace for the same use it (sic) at up to the existing lawful density and intensity (up to the original square footage) prior to a natural disaster.

Intensity is defined in the LDC as *meaning a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation, or floor area ratios.*

Attorney Miller opined that the term "intensity" is not referring to the square footage of residential units.

As to **Density**, clearly two dwelling units are allowed in this RM zoning district; LDC Section (34-632(3) and 34-632(5)(c) which allows to count lock-off units for purposes of determining density. Applicant has 2 units by right, and are seeking through the pre-disaster buildback policy to go to one additional dwelling unit. They are allowed to do that under the pre-disaster buildback provisions under Sec. 34-3237, which then refers to Sec 34-3238(2)(d), post-disaster buildback for determining the number of dwelling units for residential buildings.

Attorney Miller opined that there is evidence of use as a lock-off unit, and the property appraiser has characterized it as a tri-plex, it is within the Council's right, as the finder of fact, to determine that there are legally documented three dwelling units.

Regarding the issue of square footage, the applicant is seeking a variance or deviation of 990 square feet; under the current RM zoning, they can build 4,000 square feet, within the setbacks, two stories, 8,000 square feet.

Fort Myers Beach Town Council

June 6, 2011

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Discussion ensued regarding the cupola, the height and pitch of the roof, height of neighboring buildings, and proposed resolution with conditions.

MOTION by Council Member Kosinski; Second by Council Member Mandel

A motion to approve FMBDCI2011-0002 Rowe RPD with the condition that

1. The proposed building and all proposed amenities must comply with all FEMA regulations in effect at the time of Development Order and all provision found in LDC Chapter 34-3237, excluding the requested and approved deviations.
2. The mechanical cupola illustrated on applicant's Exhibit D-2-2 must remain non-habitable space and be relocated as close to Estero Boulevard as possible.
3. A sprinkler system shall be installed consistent with the building's intended use that will meet all Florida fire codes and must be included in Development Order plans and installed at the time of construction.
4. Applicant must meet all applicable environmental requirements of the LDC, including but not limited to protection of dune vegetation and appropriate sea turtle lighting.
5. At the time of Development Order, applicant must adhere to best stormwater management practices and all applicable LDC sections pertaining to stormwater and drainage when addressing the on-site stormwater conditions.
6. Applicant must provide any and all required Florida Department of Environmental Protection approvals and permits at the time of Development Order.

APPROVED DEVIATIONS

Deviation #1

Deviation from Table 34-3 of the LDC, to allow for a maximum height of 35 feet/4 stories; a maximum roof height of 58 feet not including the cupola.

Deviation #2

Deviation from Section 34-3237(4) which requires all interior square footage of a rebuilt dwelling not to exceed the interior square footage of the original dwelling unit, to allow for an increase of interior square footage to permit the proposed 8,990 square foot condominium.

VOTE: Motion passed 4-1 with Vice Mayor Raymond dissenting.

Mayor Kiker closed the public hearing at 2:00 PM.

XII. ADMINISTRATIVE AGENDA

B. Final Completion – North Estero Drainage Improvement Project

Public Works Director Cathie Lewis informed the Council that the punch-out list has been completed and the contractor will warrant the work for one year; the project is ready for acceptance.

Opened Public Comment

None

Fort Myers Beach Town Council

June 6, 2011

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Closed Public Comment

MOTION: Council Member List moved to accept the final completion of the North Estero drainage improvement project and begin the one year warranty period with Southwest Utility Systems, Inc. effective Jun 1, 2011. Seconded by Council Member Kosinski.

VOTE: Motion passed 5-0.

C. Introduction to 11-05, Residential Rental Registration Ordinance

Town Clerk Mayher read the ordinance title:

ORDINANCE 11-05

AN ORDINANCE CREATING CHAPTER 10, ARTICLE VII, IN THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "REGISTRATION OF RESIDENTIAL RENTAL PROPERTY;" PROVIDING FOR PURPOSE AND INTENT; APPLICABILITY; REGISTRTION OF RESIDENTIAL DWELLING UNITS REQUIRED; AGENCY; GENERAL PROVISIONS; REGISTRATION APPLICATIONS AND RENEWALS; POSTING AND NOTIFICATION REQUIRMENTS; TRANSFERABILITY; VIOLATIONS AND PENALTIES; SEVERABILITY AND AN EFFECTIVE DATE.

Opened Public Comment

None

Closed Public Comment

MOTION: Vice Mayor Raymond moved to introduce ordinance 11-05, Residential Rental Registration and Set a public hearing date for June 20, 2011 at 6:30 PM. Second by Council Member Kosinski.

VOTE: Motion passed 5-0.

A. Approve Funding Request – 4th of July Fireworks Event

The Town has received a request for funding for 4th of July fireworks event, the amount of \$18,000.00 with an additional cost of \$3,760.00.

MOTION: Council Member Mandel moved to authorize the Town Manager to come up with the necessary funds for this request, and in the meantime attempt to seek funds from other agencies to support this expense. Council Member List seconded the motion.

VOTE: Motion passed 5-0.

D. Selection of Voting Delegate for Florida League of Cities' Annual Conference Business Session

Opened Public Comment

None

Closed Public Comment

Fort Myers Beach Town Council

June 6, 2011

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MOTION: Council Member List moved to designate Vice Mayor Raymond as the voting delegate to represent the Town of Fort Myers Beach at the Florida League of Cities' Annual Conference on August 11-13, 2011. Second by Council Member Kosinski.

VOTE: Motion passed 5-0.

XII. PUBLIC COMMENT

None.

XIII. TOWN MANAGER'S ITEMS

XIV. TOWN ATTORNEY'S ITEMS

Attorney Miller referenced having received the certificate of no appeal for the bond validation hearing.

XV. COUNCILMEMBERS ITEMS AND REPORTS

A. Discussion of Florida League Meetings for Committee Responsibilities – Vice Mayor Raymond
Vice Mayor Raymond sought approval from the Council to attend four different meetings for the Florida League of Cities' Growth and Transportation committee, and to have the travel expenses reimbursed by the Town.

MOTION: Council Member List moved to approve Vice Mayor Raymond's attendance and reimbursement. Council Member Kosinski seconded the motion.

VOTE: Motion passed 5-0.

Council Member List discussed work being done with the Beach Elementary School through teacher Mrs. Rockwell and Principal Wood.

Council Member Mandel suggested staff mail postcards regarding the Evaluation and Appraisal Report to northern residents; he asked staff to investigate the past weekend's power outage even though there was no storm; he referenced the new pedestrian signs at crosswalks and encouraged businesses or area groups to pledge for the cost of the signs.

Mayor Kiker inquired about the royal palm trees on North Estero; he asked about the Town staff who were trained to install the 'flex-paver' material in the Estero ROW; he inquired about signage at BORC; he inquired about a sign at Newton Park; he referenced a 'soft' opening at Crescent Beach Family Park on Friday June 10, 2011.

XVI. AGENDA MANAGEMENT

Strategic Planning to be moved to the August 15, 2011 agenda.

XVII. RECAP OF ACTION ITEMS


Possible reimbursement regarding the interlocal agreement and the Estero Island Beach Restoration – bring back on June 20 2011.
Submit the Arts & Attractions grant
Mound House change order
Mermaid request approved
Merlo's request approved
Rowe RPD approved
Fund the 4th of July fireworks request; seek additional dollars from the County
North Estero approved
Rental Registration ordinance to be heard on June 20, 2011
Bike path repairs
Letter to the library

XVIII. ADJOURNMENT

Motion by Council Member List, second by council member Mandel to adjourn. Meeting adjourned at 2:50 PM.

Adopted 8-1-11 With/Without changes. Motion by Mandel/List

Vote: 5-0


Michelle D. Mayher, Town Clerk

- End of document.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Koinski, Joseph		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Fort Myers Beach Town Council
MAILING ADDRESS 135 Gulfview Ave		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY Fort Myers Beach	COUNTY LEE	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED June 6, 2011		NAME OF POLITICAL SUBDIVISION:
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joseph C. Kosinski, hereby disclose that on June 6, 20 11:

(a) A measure came or will come before my agency which (check one)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by
whom I am retained; or
- ☐ inured to the special gain or loss of _____, which
is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Blue Sheet Number: 2011-058

Case Number FMBSEZ2010-0003, Mermaid Liquor & Lounge Special Exemption

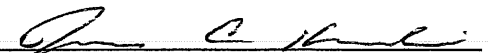
Approval of a special exception in the Downtown zoning district to allow consumption on premises of alcoholic beverages in a restraunt providing outdoor seating area within 500 feet of a dwelling unit under separate ownership.

I wish to abstain from voting on this case due to the fact that my company, JC Kosinski Engineering Inc., provided the permitted plans for the outside seating area. I feel that due to this conflict I should not vote on this issue.

Date Filed

6-6-2011

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



Town of Fort Myers Beach

COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for PUBLIC HEARING

This is a two part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit *one ORIGINAL paper copy, eleven (11) copies and one digital/electronic copy* of all required applications, supplemental information, exhibits and documents. Please do not print and copy the instructions at the end of the application.

PROJECT NUMBER: DCI 2014-0003 DATE: 5-28-14

Site Address: 324 ESTERO BOULEVARD, FORT MYERS BEACH, 33931

STRAP Number: 24-46-23-W1-00900.0010

Applicant: CHRISTOPHER AND HENRIETTA ROWE Phone: 239 437 6038

Contact Name: CHRISTOPHER J. ROWE Phone: 905 847 8742

Email: kichee@gmail.com Fax: _____

Current Zoning District: RESIDENTIAL PLANNED DEVELOPMENT (RPD)

Future Land Use Map (FLUM) Category: MIXED RESIDENTIAL

FLUM Density Range: 6 DU PER ACRE Platted Overlay: ☐ YES ☒ NO

ACTION REQUESTED

- ☐ Special Exception
- ☐ Variance
- ☐ Conventional Rezoning
- ☐ Planned Development ☐ Commercial ☐ Residential
- ☒ Master Concept Plan Extension
- ☐ Appeal of Administrative Action
- ☐ Vacation of Platted Right-of-way and Easement
- ☐ Other - cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

- PH-A
- PH-B
- PH-C
- PH-D
- PH-E
- PH-F
- PH-G
- attach on separate sheet

PART I - General Information

A. Applicant*: CHRISTOPHER & HENRIETTA ROWE Phone: 239 437 6038

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

Applicant Mailing Address: 16256 EDGE MONT DRIVE, FORT MYERS FL 33908

Email: Kithet@gmail.com Fax: _____

Contact Name: CHRISTOPHER J. ROWE Phone: 239 437 6038

B. Relationship of Applicant to subject property:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Owner* | <input type="checkbox"/> Land Trust* | <input type="checkbox"/> Partnership* |
| <input type="checkbox"/> Corporation* | <input type="checkbox"/> Association* | <input type="checkbox"/> Condominium* |
| <input type="checkbox"/> Subdivision* | <input type="checkbox"/> Timeshare Condo* | <input type="checkbox"/> Contract Purchaser* |
| <input type="checkbox"/> Authorized Representative* | <input type="checkbox"/> Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: BABY RICH, VIP VACATION Phone: 239 425 6438

Address: 2450 ESTERO BLVD RENTALS FORT MYERS BEACH 33931

Email: BABY@VIPREALTY.COM Fax: 239 437 7783

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

Name: _____ Phone: _____

Address: _____

Email: _____ Fax: _____

PART II - Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☒ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☒ Extension/reinstatement of Master Concept Plan. List project number: Reso. 11-07 JRO
- ☐ Appeal of Administrative Action
- ☐ Vacation ☐ Right-of-Way ☐ Easement
- ☐ Other. Please Explain: _____
- _____
- _____

PART III - Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV - Property Ownership

- ☒ Single Owner (individual or husband and wife)
- Name: CHRISTOPHER & HENRIETTA ROWE Phone: 239 437 6038
- Mailing Address: 16256 EDMONT DRIVE, FORT MYERS, FL 33908
- Email: Kithet@gmail.com Fax: _____

☐ Multiple Owners (including corporation, partnership, trust, association, condominium, timeshare, or subdivision)

☐ Complete Disclosure of Interest Form (see below)

☐ Attach list of property owners as Exhibit 4-1

☐ Attach map showing property owners interests as Exhibit 4-2 (for multiple parcels)

☐ For condominiums and timeshares see Explanatory Notes Part IV (Page 11)

DISCLOSURE OF OWNERSHIP INTEREST

STRAP: 24-46-23-W1-00900.0010

If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

CHRISTOPHER & HENRIETTA ROWE
16256 EDMONT DRIVE,
FORT MYERS, FL, 33908

Percentage Ownership

100 %

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office	Percentage of Stock

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature

CHRISTOPHER J. ROWE
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on April 1, 2014 (date) by Kristina Greenshields (name of person providing oath or affirmation), who is personally known to me or who has produced Ontario DL (type of identification) as identification.

(SEAL)



Signature

Kristina Greenshields
Printed Name

PART V - Property Information

A. Legal Description:

STRAP: 24-46-23-W1-00900.0010

Property Address: 384 ESTERO BOULEVARD, FORT MYERS BEACH 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☐ No. Attach a legible copy of the legal description as Exhibit 5-1.

☒ Yes. Property identified in subdivision: _____

Book: 9 Page: 88 Unit: 4 Block: D Lot(s): 1

B. Boundary Survey:

☒ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 5-2.

C. Property Dimensions:

Width (please provide an average width if irregular in shape) 48 FEET feet

Depth (please provide an average width if irregular in shape) 380.21 FEET feet

Frontage on street: 25 feet. Frontage on waterbody: 48 feet

Total land area: 0.61 ☒ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

FROM SKY BRIDGE HEAD WEST ON 5TH AVENUE
(OR ESTERO BLVD)
PROCEED WEST FOR 0.7 MILES TO GULFSHORE
COURT. TURN LEFT TO SUBJECT PROPERTY

☐ Attach Area Location Map as Exhibit 5-3

E. Property Restrictions (check applicable):

☒ There are no deed restrictions and/or covenants on the subject property.

☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 5-4.

☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 5-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☐ Attach a list of surrounding property owners within 500 feet as Exhibit 5-6.
- ☐ Attach a map showing the surrounding property owners as Exhibit 5-7.
- ☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| <input type="checkbox"/> Low Density | <input type="checkbox"/> Marina |
| <input checked="" type="checkbox"/> Mixed Residential | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Boulevard | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Pedestrian Commercial | <input type="checkbox"/> Platted Overlay |

H. Zoning (see official Zoning Map):

- | | |
|---|--|
| <input type="checkbox"/> RS (Residential Single-family) | <input type="checkbox"/> CF (Community Facilities) |
| <input type="checkbox"/> RC (Residential Conservation) | <input type="checkbox"/> IN (Institutional) |
| <input type="checkbox"/> RM (Residential Multifamily) | <input type="checkbox"/> BB (Bay Beach) |
| <input checked="" type="checkbox"/> RPD (Residential Planned Development) | <input type="checkbox"/> EC (Environmentally Critical) |
| <input type="checkbox"/> CM (Commercial Marine) | <input type="checkbox"/> DOWNTOWN |
| <input type="checkbox"/> CO (Commercial Office) | <input type="checkbox"/> SANTOS |
| <input type="checkbox"/> CB (Commercial Boulevard) | <input type="checkbox"/> VILLAGE |
| <input type="checkbox"/> CR (Commercial Resort) | <input type="checkbox"/> SANTINI |
| <input type="checkbox"/> CPD (Commercial Planned Development) | |

PART VI

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

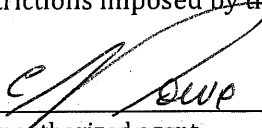
I, CHRISTOPHER J. ROWE swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;

I have authorized the staff of the Town of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that


The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.


Signature of owner or authorized agent

APRIL 1, 2014
Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on April 1, 2014 (date) by Kristina Greenshields (name of person providing oath or affirmation), who is personally known to me or who has produced Ontario DL (type of identification) as identification.


Signature

Kristina Greenshields
Printed Name

(SEAL)



PART VII

AFFIDAVIT

**APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.),
LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE**

I, _____ (name), as _____ (title)
of _____ (company), swear or affirm under oath, that I am the
owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was sworn to (or affirmed) and subscribed before me on _____
(date) by _____ (name of person providing oath or affirmation), who is
personally known to me or who has produced _____ (type
of identification) as identification.

(SEAL)

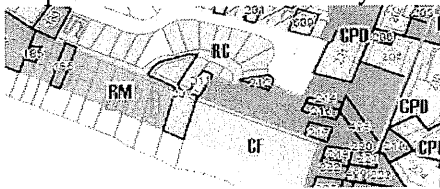
Signature

Printed Name

Case # DCI2014-0003
Planner _____

Date Received 5-28-14
Date of Sufficiency/Completeness _____

Town of Fort Myers Beach
Department of Community Development



Zoning Division

Supplement PH-E

**Additional Required Information for an MCP Extension or
Reinstatement Application**

This is the second part of a two-part application. This part requests specific information for an extension of a master concept plan or a reinstatement of a vacated master concept plan. Include this form with the Request for Public Hearing form.

Project Name:	<u>ROWE PLANNED DEVELOPMENT</u>
Authorized Applicant:	<u>CHRISTOPHER J. ROWE</u>
LeePA STRAP Number(s):	<u>24-46-23-W1-00900-0010</u>

Current Property Status:	
Current Zoning:	<u>R P D</u>
Future Land Use Map (FLUM) Category: <u>MIXED RESIDENTIAL</u>	
Platted Overlay? <u>yes</u> <input checked="" type="checkbox"/> no <input type="checkbox"/> FLUM Density Range: <u>6 DU/ACRE</u>	

Requested Action:

<input checked="" type="checkbox"/>	Extend the MCP approved by Resolution <u>11-09</u>
<input type="checkbox"/>	Reinstate the vacated MCP approved by Resolution _____

Date Received _____
Date of Sufficiency/Completeness _____

1. Has this Master Concept Plan received any prior extensions from Lee County or the Town of Fort Myers Beach?

_____ Yes (Resolution numbers and dates):
_____ No

2. Was the planned development proposed for two or more phases? Yes No

If yes, attach copies of the approved phasing plan as "Exhibit 2"

If yes, explain why the master concept plan was allowed to become vacated:

[illegible]

Date Received _____
Date of Sufficiency/Completeness _____

ESTABLISHMENT OF RPD ON JUNE 6, 2011

<input checked="" type="checkbox"/> The entire original development as proposed
<input type="checkbox"/> Phases _____ as proposed

COMPLETELY

Case # _____
Planner _____

Date Received _____
Date of Sufficiency/Completeness _____

7. Does the development proposed by the master concept plan remain compatible with the existing and proposed uses in the surrounding area in view of development approvals issued subsequent to the original approval of the master concept plan?

YES

8. Does the development shown on the master concept plan place an unreasonable burden on public facilities?

No